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Attorneys for Plaintiff
MOSS LANDING COMMERCIAL PARK LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MOSS LANDING COMMERCIAL PARK
LLC,

Plaintiff,

v.

KAISER ALUMINUM CORPORATION,
KAISER ALUMINUM & CHEMICAL
CORPORATION, and DOES 1 through
100,

Defendants.

CASE NO. C07 06072 RMW/PVT

**PLAINTIFF'S AMENDED SECOND CASE
MANAGEMENT STATEMENT**

Date: May 23, 2008

Time: 10:30 a.m.

Plaintiff Moss Landing Commercial Park, LLC submits the following Case Management
Statement:

1. Facts:

This case involves the contamination of real property, groundwater, and surface waters
located in and about Highway 1, Dolan Road, Monterey Bay, and Moro Cojo Slough, Moss
Landing, California (the "Impacted Property"). Plaintiff Moss Landing Commercial Park, LLC
("MLCP") is the current owner of real property formerly occupied by Kaiser Aluminum &
Chemical Co. (the "Site") for the production of refractory brick, among other items. MLCP
alleges in its complaint that Kaiser Aluminum Corporation and Kaiser Aluminum and Chemical

1 Corporation (collectively, "Kaiser") contaminated the Impacted Property, surface waters, and
2 groundwater; that the source of the contamination is two waste dumps created by Kaiser during
3 its occupancy of the Site, and that Kaiser is responsible for the remediation of the waste dumps
4 and the impacted surface water and groundwater. Accordingly, Plaintiffs request from this Court,
5 among other things, an injunction requiring Kaiser to undertake said remedial activities.

6 2. Status of Case:

7 Subsequent to service of MLCP's complaint, defendants filed their Motion of
8 Reorganized Debtors to (A) Enforce Injunctions Issued in Connection with the Second Amended
9 Joint Plan of Reorganization and (B) Compel Moss Landing Commercial Park LLC to Dismiss
10 with Prejudice Its Lawsuit Against Kaiser Aluminum Corporation and Kaiser Aluminum &
11 Chemical Corporation in the United States Bankruptcy Court for the District of Delaware. This
12 motion was heard in Wilmington, Delaware on February 25, 2008. The bankruptcy court granted
13 the motion, found that this action should be dismissed without prejudice, and entered an order
14 reflecting its decision. MLCP filed a notice of appeal of that order with the Delaware District
15 Court.

16 MLCP thereafter filed with the bankruptcy court an application for a stay of its order
17 pending the appeal. The bankruptcy court denied this application. Thereafter, MLCP
18 successfully sought and obtained from the Delaware District Court an emergency stay of the
19 bankruptcy court's order. A copy of the Delaware District Court's April 25, 2008 order ("Order")
20 staying the bankruptcy court's order pending MLCP's appeal of same is attached hereto as
21 Exhibit A. The Order requires Kaiser to file an answer and permits the parties to pursue
22 discovery. Accordingly, this action may now proceed.

23 Prior to the ruling by the bankruptcy court on Kaiser's motion, the parties had submitted a
24 stipulation and draft order to this Court which noted that Kaiser was to file an answer within 10
25 days of the bankruptcy court's ruling, assuming the bankruptcy court denied defendant Kaiser's
26 motion. In light of the procedural events noted above, and in light of this Court's apparent
27 decision to not act upon the stipulation and proposed order, the parties have agreed that this Court
28 should determine the appropriate time frame for an answer to be filed.

1 Plaintiff therefore requests that this Court a) set an appropriate deadline for Kaiser to file
2 their answer, b) establish a schedule for FRCP 26 disclosures, and c) address such other discovery
3 and scheduling matters as are appropriate.
4

5 Dated: May 2, 2008

ROPERS, MAJESKI, KOHN & BENTLEY

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7 By: /s/
8 THOMAS H. CLARKE, JR.
9 TIMOTHY A. DOLAN
10 Attorneys for Plaintiff MOSS
11 LANDING COMMERCIAL PARK
12 LLC
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